



25 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Dilworth and Barrese LLP  
333 Earle Ovington Blvd  
Suite 702  
Uniondale, NY 11553

In re Application of KELLEY et al	:	
U.S. Application No.: 10/584,678	:	
PCT Application No.: PCT/US03/37994	:	
Int. Filing Date: 26 November 2003	:	DECISION
Priority Date Claimed: 27 February 2003	:	
Attorney Docket No.: 1238-2 PCT US	:	
For: METHOD FOR DIGITALLY CREATING	:	
LITHEPHANE-TYPE IMAGES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 28 June 2006.

**BACKGROUND**

On 26 November 2003, applicant filed international application PCT/US03/37994, which claimed priority of an earlier United States application filed 27 February 2003. The thirty-month period for paying the basic national fee in the United States expired on 27 August 2005.

International application PCT/US03/37994 became abandoned as to the United States for failure to timely pay the basic national fee.

On 28 June 2006, applicant filed the present petition under 37 CFR 1.137(b).

**DISCUSSION**

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has not provided the required statement. Specifically, the petition is not signed in accordance with 37 CFR 1.33(b), which specifies that papers filed with the USPTO must be signed by a registered patent attorney/agent, an assignee who has exercised its right to take action under 37 CFR 3.73(b), or all of the applicants. In the present case, the petition is signed by only one of the applicants. Furthermore, page 1 of the petition appears to be an original sheet whereas page 2 appears to have been transmitted by facsimile, which raises doubt as to whether the actual submitted pages were together at the time of execution. Applicant must submit either the original executed document or a complete copy thereof.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bryan Tung  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303  
Facsimile: 571-273-0459